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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3503 OF 2007

CTR Manufacturing Industries Ltd.,
Nagar Road, Pune. ... Petitioner

V/s

Shri G.B. Pardeshi ... Respondent

Mr. T.K. Prabhakaran for the petitioner.

Mr. Nitin Kulkarni for Mr. G.S. Godbole for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 25TH JULY, 2007.

P.C.:

1. The petitioner challenges the orders of the Labour Court and the Industrial Court allowing the complaint filed by the respondent workman. The Labour Court held that the petitioner had committed unfair labour practices under Items 1(a) & (g) of Schedule IV of the M.R.T.U. & P.U.L.P. Act. The Labour Court consequently directed the petitioner to reinstate the workman with continuity of service and full back wages w.e.f. 30.5.1992. Against this decision, the petitioner preferred a revision application before the Industrial Court. The revision application was partly

allowed and the order of the Labour Court was modified to the extent that the back wages were reduced by 50%.

2. Both the Courts below have held that the misconduct which was proved was of a minor and technical in nature and that the petitioners have imposed a shockingly disproportionate punishment having no regard for the past service record of the employee. The learned advocate by the petitioner submits that the petitioner had conceded to granting approval to the dismissal order passed against him and, therefore, he could not now challenge his dismissal. This submission cannot be accepted as, firstly, in this case the respondent workman has conceded to the approval being granted while reserving his right to challenge the dismissal order, either by way of a reference for adjudication or by filing a complaint under the M.R.T.U. & P.U.L.P. Act. It is well settled that the findings of the Industrial Tribunal in an approval application do not act as res-judicata in a reference made to the Industrial Tribunal or Labour Court for adjudication of the dispute regarding reinstatement of that workman.

3. The bar of Section 59 will also would also not apply in this context.

4. Petition rejected.

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